Howe Mach. Co. v. Nail Needle Co., 134 U. S. 388; *Day v. Fair Haven Ry. Co.*, 132 U. S. 98. To be raised to the dignity of an invention, the improvement must be one which would not ordinarily occur to an expert mechanic. *Mast, Foos & Co. v. Stove Mfg. Co.*, 177 U. S. 493; *Potts v. Creager*, 155 U. S. 597. So also the aggregation or combination of old elements, which perform no new function and accomplishes no new results, does not involve a patentable novelty. *Mosler Safe Co. v. Mosler*, 127 U. S. 364; *Peters v. Hanson*, 129 U. S. 541. Yet if such a new combination of known elements produces a new and beneficial result, it is evidence of invention but not conclusive. *Loom Co. v. Higgins*, 105 U. S. 580. Moreover, the use of an old thing for a new purpose does not constitute an invention unless it produces a new and useful result. *Grant v. Walter*, 148 U. S. 547; *Knapp v. Morss*, 150 V. S. 221. Nor is a device any less an equivalent of another because it may perform an additional function, *O'Leary v. Utica & M. V. Ry. Co.*, 144 Fed. 399; *Wheeler v. Climper, Mower, etc., Co.*, Fed. Cas. No. 17,493. One of the best tests of invention, also, is whether it brings to actual commercial success what prior inventors had partly accomplished. *Consolidated Valve Co. v. Crosby Valve Co.*, 113 U. S. 157; *Smith v. Goodyear Dental Vulcanite Co.*, 93 U. S. 686. And although prior unsuccessful experiments involved the same idea or principle as a subsequent patent, the latter will not be invalidated. *Whitelys v. Swayne*, 7 Wall. 685; *Am. Bell Telep. Co. v. People Tel. Co.*, 25 Fed. 725.

SLANDER—EVIDENCE—UNDERSTANDING OF WORDS SPOKEN.—PROCTER V. POINTER, 56 S. E. 111 (GA.).—*Held*, that in cases of slander, an exception is sometimes made to the general rule that witnesses must state facts, and not their inferences from them and as the slander and damage consist in the apprehension of the hearers, they are allowed to give their understanding of the words spoken.

The general rule is that witnesses may state their understanding of slanderous words proved to have been spoken. *Tottlebein v. Blankenship*, 88 Ill. App. 47; *Freeman v. Sanderson*, 123 Ind. 264. But a contrary view has occasionally been taken. *Snell v. Snow*, 54 Mass. 278; *Wright v. Paige*, 36 Barb. (N. Y.) 438. So where a slander was made by insinuations and gestures, it was competent for hearers to state what they understood by them. *Leonard v. Allen*, 65 Mass. 241. Custom may give to words an uncommon meaning and a witness may be allowed to give his understanding of them. *Newbold v. Bradstreet*, 57 Md. 38. But where words are unambiguous and expressed in ordinary language, a witness will not be allowed to testify as to his understanding. *Jarnigan v. Fleming*, 43 Miss. 710. Hence, the converse also is true, that evidence as to understanding of witness will only be admitted where the words are ambiguous and susceptible of different meanings. *Shaw v. Shaw*, 49 N. H. 533.

STATE REGULATION—POLICE POWER—CITY ORDINANCE—CITY OF SELMA V. TILL, 42 So. 405 (ALA.).—*Held*, that a city ordinance, making it an offense for one to peddle without having secured a license was not repugnant to the Interstate Law nor any other feature of the State or Federal Constitution.

Any state has the right, by virtue of its police power, to tax or forbid any class of employment which may be prejudicial to the public good *Cooley on Const. Limitations*, sixth edition, 742; *Sayre v. Phillips*, 148 Pa. St. 482. This police power is inherent in a state without any reservation in the Constitution. *Carthage v. Frederick*, 122 N. Y. 268; *Com. v. Vrooman*,

164 Pa. St. 306. It must be distinguished from eminent domain or taxing power. *Carthage v. Rhodes,* 101 Mo. 175; *N. Y. Health Dep't. v. Trinity Church,* 145 N. Y. 32. Although police power is exercised only for the purpose of promoting the public welfare, yet the object must always be regulation and not the raising of revenue. *Walker v. Jameson,* 140 Ind. 591; *Muhlenbrinck v. Long Branch Com'rs,* 42 N. J. L. 364. Moreover, in the absence of any constitutional restriction it may be delegated to the various municipalities throughout the state. *N. Y. Fire Dep't v. Gilmour,* 149 N. Y. 453; *Com. v. Plaisted,* 148 Mass. 375. But such city ordinance must not be a regulation of interstate commerce nor discriminate between residents or products of different states. *Welton v. Mo.* 91 U. S. 275; *Robbins v. Shelby Co. Taxing Dist.* 120 U. S. 498. Hence, sellers by sample for future delivery are not regarded, in this country, as peddlers, under such a city ordinance. *Stanford v. Fisher,* 140 N. Y. 187; *Com. v. Farnum,* 114 Mass. 267. And one imposing a license on peddling of patent rights would be unconstitutional and void. *In re Sheffield,* 64 Fed. 836. So, also, such an ordinance must not deny anyone, such as a foreigner, within the jurisdiction of that state, the equal protection of its laws. *State v. Montgomery,* 94 Me. 192; *County of Santa Clara v. So. Pac. Ry. Co.,* 118 U. S. 396.

STREET RAILROADS—COLLISION WITH TEAM—EVIDENCE.—BAICKER V. PEOPLE'S ST. RY. CO. OF NANTICOKE & NEWPORT, 64 ATL., 675 PA.—A collision occurred between a street car and the plaintiff's wagon, the evidence showing that if plaintiff had continued on his course, he could have cleared the track and avoided the collision, but that having changed his mind, he attempted to back off. Both the motorman and the plaintiff acted on the belief that he would succeed. *Held,* that he could not recover for the injuries received. Mestrezat, J., *dissenting.*

Persons engaged in operating street cars are not required to use more than ordinary care to see that the track is clear to avoid collisions with vehicles. *St. Antonio St. Ry. Co. v. Mechler,* 87 Tex. 628. Where a person drives in front of an electric car and is struck by it, while attempting to get off the track, the street railway is not liable where there was no evidence that the speed was dangerous or that the gong was not sounded. *Guilloz v. Fort Wayne & B. I. Ry. Co.,* 108 Mich. 41. The dissenting opinion is in accordance with the decisions laid down in several jurisdictions. Since street railroads have no superior right of way over vehicles at public crossings, the company will be liable for negligence in its employees, in failing to have the car under control at such places. *Watson v. Minneapolis St. R. Co.,* 53 Minn. 551; *Hickman v. Union Depot R. Co.,* 47 Mo. App. 65. Although the peril may have been increased by an attempt to avoid it, the street railway is liable, if the driver was placed in peril by the negligence of the conductor and injury occurred while the teamster was exercising ordinary care. *Gibbons v. Wilkesbarre & S. St. Ry. Co.,* 155 Pa. 279.

USURY—ASSUMPTION OF USURIOUS DEBT.—STUCKEY V. MIDDLE STATES LOAN BLDG. & CONST. CO., 55 S. E. 996 (W. VA.).—*Held,* that one who purchases land which is subject to an usurious debt and assumes payment of such debt, as part of the consideration cannot be relieved from the usury.

Whether the right to take advantage of the different statutes of usury is a personal or vested one is apparently a much mooted question in the various jurisdictions of this country. Some courts give the assignee of an usurious trust obligation the same rights of defense, as that of assignor at the